

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KERRY BEGAY,

Plaintiff,

v.

No. 21-cv-0937 KWR-KBM

KEITH A. MANDELSKI and
STATE OF NEW MEXICO,

Defendants.

ORDER OF DISMISSAL

This matter is before the Court following Plaintiff Kerry Begay's failure to prosecute his civil rights action. Plaintiff is incarcerated and proceeding *pro se*. By an Order entered August 17, 2022, the Court granted leave to proceed *in forma pauperis*. (Doc. 5). The Court also directed Plaintiff to make an initial partial payment of \$9.50 within thirty days of entry of the Order. (Doc. 5). Such payment is required by statute. *See* 28 U.S.C. § 1915(b)(1). The amount represents 20% of the greater of Plaintiff's average monthly deposits or average balance for the six-month period preceding this action. The Order warned that the failure to timely comply will result in the dismissal of this case without further notice.

The payment deadline was September 16, 2022. Plaintiff failed to comply, show cause for this failure, or otherwise respond. The Court will therefore dismiss this action without prejudice pursuant to Fed. R. Civ. P. 41(b) based on the "failure to prosecute [and] comply with the ... court's orders." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003).

IT IS ORDERED that Plaintiff Kerry Begay's Amended Prisoner Civil Rights Complaint

(Doc. 3) is DISMISSED without prejudice; and the Court will enter a separate judgment closing the civil case.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE